

**THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
CRIMINAL CASE NO. 1:11cr74**

**UNITED STATES OF AMERICA**

**vs.**

**JACK ODELL BRACKEN.**  
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**ORDER**

**THIS MATTER** is before the Court upon the Defendant's Motion to Reconsider [Doc. 19].

The Defendant originally appealed the Magistrate Judge's Order which detained him pending trial pursuant to the provisions of 18 U.S.C. § 3142. [See Doc. 4]. Subsequent to the filing of this appeal the Defendant entered a guilty plea, and a second detention order was entered detaining him pending sentencing. [See Doc. 13]. Noting the Defendant's guilty plea, this Court held that the issue of detention was governed by 18 U.S.C. § 3143 and therefore denied the Defendant's appeal of the pretrial detention order as moot. [Doc. 18]. The Defendant now moves for reconsideration of that Order. [Doc. 19].

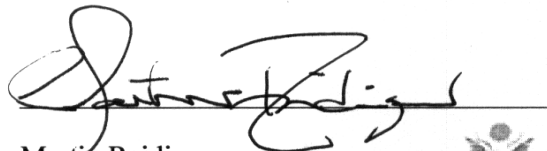
In arguing for reconsideration, the Defendant argues that he is not subject to detention pursuant to 18 U.S.C. § 3143 because the charge to which

he pled guilty is an offense for which “the applicable guideline promulgated pursuant to 28 U.S.C. 994 does not recommend a term of imprisonment.” 18 U.S.C. § 3143(a)(1). The Defendant, however, failed to raise this argument at the time of entry of his guilty plea, and thus the Magistrate Judge did not have the opportunity to address this issue. In the interests of justice, the Court therefore will grant the Defendant’s motion for reconsideration and refer this matter to the Magistrate Judge for such further proceedings as may be necessary to determine whether the Defendant is subject to continued detention pending sentencing.

**IT IS, THEREFORE, ORDERED** that the Defendant’s Motion to Reconsider [Doc. 19] is **GRANTED**, and this matter is referred to the Magistrate Judge for further proceedings.

**IT IS SO ORDERED.**

Signed: October 18, 2011

  
Martin Reidinger  
United States District Judge

